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EV 316331799 US

Date of Deposit:

October 15, 2003

Type of Document(s):

Petition Under 37 CFR 1.181 For  
Withdrawal of Notice of Abandonment;  
Exhibit A – Response (17 pages);  
Exhibit B – Express Mail Receipt;  
Exhibit C – Postcard (2 pages);  
Return Postcard

Serial No.:

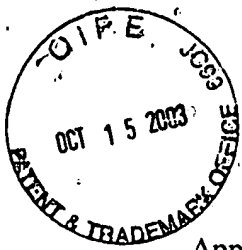
09/728,471

Date Filed:

November 30, 2000

I hereby certify that the documents identified above are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and are addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Catherine A. Johnson  
Catherine A. Johnson



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Young, et al.  
Application No: 09/728,471  
Filing Date : November 30, 2000  
Title: : SYSTEM AND METHOD FOR PERFORMING AN  
ELECTRONIC TRANSACTION USING A  
TRANSACTION PROXY WITH AN ELECTRONIC WALLET

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION UNDER 37 C.F.R. § 1.181 FOR WITHDRAWAL  
OF NOTICE OF ABANDONMENT**

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Sir:

Pursuant to 37 C.F.R. § 1.181 and the Manual of Patenting Examining Procedure (MPEP) § 711.03(c), the undersigned representative hereby petitions the Commissioner of Patents to withdraw the holding of abandonment for the above-identified application. Rule 37 C.F.R. § 1.181 states in part:

(a) Petition may be taken to the Commissioner:

1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and

3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

Similarly, section 711.03(c) of the MPEP states,

Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee.

As required by 37 C.F.R. § 1.181(b), the undersigned representative sets forth a statement of the facts below and requests withdrawal of the holding of abandonment in the above-identified application and consideration of the timely filed response.

### **STATEMENT OF THE FACTS**

1. On September 16, 2003, applicants timely filed an "Amendment and Remarks" ("the Response") together with a request and fee for a three months extension of time extending the period for response to September 18, 2003, in response to an Office Action mailed March 18, 2003. (Copy of the Response and accompanying documents are attached as Exhibit A).

2. The Response was filed via Express Mail pursuant to 37 C.F.R. §1.10, and said Response was deposited with the United States Postal Service (USPS) on September 16, 2003 as is indicated by the hand written "date-in" field on the Express Mail receipt as well as the "date-in" stamp on the receipt. (Copy of the Express Mail receipt is attached as Exhibit B).

3. Applicant accompanied the Response with a self-addressed stamped postcard to confirm receipt. As indicated on the return postcard, the Patent and Trademark Office stamped a "date-in" of September 16, 2003 on the postcard. (Copy of the front and back of the postcard is attached hereto as Exhibit C).

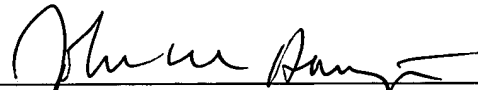
4. Notwithstanding the timely filing of the Response, a Notice of Abandonment was improperly issued and mailed on October 8, 2003 in the above-identified application. The undersigned attorney discovered the existence of the improper Notice of Abandonment when the Notice of Abandonment was received in his office on October 10, 2003, and this Petition is being filed promptly and in a timely manner thereafter.

**CONCLUSION**

Based on the above-identified facts and attached exhibits, the undersigned representative respectfully requests that the improper Notice of Abandonment be withdrawn and the Response filed be considered.

Respectfully Submitted,

Date: 10/15/03

  
John M. Harrington (Reg. No. 25,592)

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607 14<sup>th</sup> Street, NW; Suite 900  
Washington, DC 20005  
(202) 508-5800



EXPRESS MAIL NO. EV31633179945  
Express Mail No. EV 315165074 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Application No.  
Filed:  
For:

YOUNG, Alan, et al.  
09/728,471  
November 30, 2000  
**SYSTEM AND METHOD FOR PERFORMING  
AN ELECTRONIC TRANSACTION USING A  
TRANSACTION PROXY WITH AN  
ELECTRONIC WALLET**

Examiner:  
Group Art Unit:

Jaketic, Bryan J.  
3627

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

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**AMENDMENT AND REMARKS**

Sir:

This Amendment is filed in response to the Office Action mailed March 18, 2003 setting a three month period for response which expired on June 18, 2003. Applicants have filed herewith a request for a three month extension of time, extending the period for response to September 18, 2003. Please amend the above-identified application as follows:

**Amendments to the Specification** begin on page 2 of this paper.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 3 of this paper.

**Remarks/Arguments** begin on page 10 of this paper.

**Amendments to the Specification:**

Please replace the first paragraph on page 1, lines 7-9 with the following paragraph:

This application relates to applicant's co-pending applications having U.S. Serial No. 09/396,242, filed September 15, 1999, and U.S. Serial No. ~~09/190,933~~ 09/190,993, filed November 12, 1998, incorporated herein by reference.

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

Claim 1 (currently amended) A method of operating a computer system for performing data management of an electronic transaction comprising:

~~offering a product for purchase from a merchant;~~

receiving selection data identifying ~~the a~~ product offered for purchase from a merchant in an electronic a transaction portal server coupled to a merchant server provided with a merchant check-out application that is in communication with a product database of the merchant and an order fulfillment system of the merchant from an interface-enabled communications device via a wireless communication network coupled to the transaction portal server;

providing product information data comprising information describing at least one aspect of the product to the interface-enabled communications device from the product database of the merchant by the merchant server via the wireless communication network coupled to the transaction portal server;

receiving shipping detail data comprising instructions related to shipping the product to a designated recipient by the merchant check-out application of the merchant server via the transaction portal server from an electronic wallet server associated with the transaction portal server and coupled to a payment processor;

receiving payment option data comprising information describing a desired means of payment for the product by the merchant check-out application of the merchant server from the interface-enabled communications device via the wireless communication network coupled to the transaction portal server;

transmitting payment authorization data to a the payment processor by the transaction portal server, wherein the payment authorization data comprises purchaser identifying data and merchant identifying data identifying the merchant;

transmitting authorization by the payment processor to the transaction portal server; and

transmitting order information to the order fulfillment system of the merchant in communication with the merchant check-out application of the merchant server by the transaction portal server, wherein the order information comprises payment option data and shipping detail data.

Claim 2 (original) The method of claim 1 further comprising displaying a product code associated with the product.

Claim 3 (original) The method of claim 2 wherein the selection data comprises the product code associated with the product.

Claim 4 (original) The method of claim 3 further comprising receiving customer identification information.

Claim 5 (currently amended) The method of claim 4 further comprising determining an electronic wallet application on the electronic wallet server associated with the customer identification information.

Claim 6 (currently amended) The method of claim 5 wherein receiving shipping detail data comprising instructions related to shipping the product to the designated recipient comprises accessing the electronic wallet application associated with the customer identification information on the electronic wallet server.

Claim 7 (currently amended) The method of claim 6 wherein receiving payment option data comprising information describing the desired means of payment for the



product comprises accessing the electronic wallet application associated with the customer identification information on the electronic wallet server.

Claim 8 (canceled)

Claim 9 (currently amended) The method of claim 8 7 wherein the product information comprises the price of the product.

Claim 10 (currently amended) The method of claim 8 7 wherein the product information comprises at least one of the following: price of the product, description of attributes of the product, brand name of the product, and name of the product.

Claim 11 (original) The method of claim 10 further comprising providing an order confirmation to the interface-enabled communications device.

Claim 12 (original) The method of claim 11 wherein receiving customer identification information comprises receiving customer identification information from the interface-enabled communications device.

Claim 13 (canceled)

Claim 14 (currently amended) The method of claim ~~13~~ 12 wherein the interface-enabled communications device comprises a web browser.

Claim 15 (original) The method of claim 14 wherein the interface-enabled communications device comprises a wireless telephone.

Claim 16 (original) The method of claim 14 wherein the interface-enabled communications device comprises at least one of the following: a telephone, a personal computer, and a personal digital assistant.

Claim 17 (original) The method of claim 16 wherein the product code comprises a unique number assigned to the product.

Claim 18 (currently amended) The method of claim 17 further comprising transmitting the product code data to the merchant server, wherein the merchant server is associated with the product code.

Claim 19 (original) The method of claim 18 wherein the shipping detail data comprises a shipping address.

Claim 20 (currently amended) The method of claim 19 wherein payment option data identifies the electronic wallet application.

Claim 21 (original) The method of claim 20 wherein the selection data comprises merchant identifying data identifying the merchant.

Claim 22 (currently amended) The method of claim 21 wherein the ~~user~~ customer identification comprises a telephone number.

Claim 23 (currently amended) The method of claim 21 wherein the ~~electronic~~ transaction portal server is in communication with at least two ~~merchants~~ merchant servers.

Claim 24 (canceled)

Claim 25 (original) The method of claim 22 wherein the desired means of payment for the product comprises a credit card.

Claim 26 (currently amended) The method of claim 22 wherein offering a product for purchase from a merchant comprises providing a hyperlink on the transaction portal server to a ~~web site of the merchant~~ server.

Claims 27-45 (canceled)

Claim 46 (currently amended) A computer system for ~~performing~~ data management of an electronic transaction comprising:

~~means for offering a product for purchase from a merchant;~~

means a transaction portal server coupled to a merchant server provided with a merchant check-out application that is in communication with a product database of the merchant and an order fulfillment system of the merchant, wherein the transaction portal server is adapted for receiving selection data identifying the a product offered for purchase from a merchant in an the electronic transaction portal server from an interface-enabled communications device via a wireless communication network coupled to the transaction portal server;

means wherein the merchant server is adapted for providing product information data comprising information describing at least one aspect of the product to the interface-enabled communications device from the product database of the merchant via the wireless communication network coupled to the transaction portal server;

means wherein the merchant check-out application of the merchant server is adapted for receiving shipping detail data comprising instructions related to shipping the product to a designated recipient via the transaction portal server from an electronic wallet server associated with the transaction portal server and coupled to a payment processor;

means wherein the merchant check-out application of the merchant server is adapted for receiving payment option data comprising information describing a desired means of payment for the product from the interface-enabled communications device via the wireless communication network coupled to the transaction portal server;

means wherein the transaction portal server is further adapted for transmitting payment authorization to a payment processor, wherein the payment authorization comprises purchaser identifying data and merchant identifying data identifying the merchant;

wherein the payment processor is adapted for transmitting authorization to the transaction portal server; and

means wherein the transaction portal server is further adapted for transmitting order information to the order fulfillment system of the merchant in communication with the merchant check-out application of the merchant server, wherein the order information comprises payment option data and shipping detail data.

Claims 47-61 (canceled)

Claim 62 (currently amended) The method of claim 61 further comprising entering into a joint venture between a provider of the electronic transaction portal server and a provider of the electronic wireless communications gateway network.

Claim 63 (currently amended) The method of claim 62 further comprising providing the electronic transaction portal server in communication with the electronic wireless communications gateway network.

Claim 64 (currently amended) The method of claim 63 further comprising providing the subscriber access to the transaction portal server.

Claim 65 (currently amended) The method of claim 64 further comprising receiving by the operator of the electronic wireless communications gateway network billing data reflecting a transaction between the merchant and the subscriber and providing a bill to the subscriber comprising the billing data.

Claim 66 (currently amended) The method of claim 65 wherein the bill further comprises billing for communications services.

Claim 67 (currently amended) The method of claim 66 wherein communications services comprises mobile telephone service.

Claim 68 (currently amended) The method of claim 67 wherein the provider of the ~~electronic~~ wireless communications gateway network comprises a mobile telephone network operator.

Claim 69 (currently amended) The method of claim 68 wherein the provider of the ~~electronic~~ transaction portal server comprises a bank.

Claim 70 (canceled)

**REMARKS/ARGUMENTS**

Claims 1-70 are pending in the application. Claims 1-70 stand rejected as obvious over Franklin et al. (U.S. Patent No. 6,125,352).

***Specification Correction***

In the specification, first paragraph on page 1 (lines 7-9), the reference to the incorrect U.S. Serial No.09/190,933 is corrected to U.S. Serial No. 09/190,993.

***Claim Amendments***

The amendment of independent method claim 1 and independent system claim 46 proposes a transaction portal server that receives the selection data from the interface-enabled communications device via the wireless communication network, which transaction portal server is also coupled to a merchant server that has a check-out application in communication with a product database and an order fulfillment system and which merchant server is adapted for providing information describing one or more aspects of the product to the interface-enabled communications device from the product database via the wireless communication network coupled to the transaction portal server. See, e.g., Appln p. 9, lines 1-29, p. 16, lines 3-17, and Figs. 1-5.

The amendment of claims 1 and 46 proposes further that the merchant check-out application is adapted to receive shipping detail data via the transaction portal server from an electronic wallet server that is associated with the transaction portal server and coupled to a payment processor and is also adapted to receive payment option data from the interface-enabled communications device via the wireless communication network coupled to the transaction portal server. In addition, the amendment of claims 1 and 46 proposes that the transaction portal server transmits payment authorization data to the payment processor, which sends an authorization back to the transaction portal server, whereupon the transaction portal server transmits

order information to the order fulfillment system of the merchant. See e.g., Appln p. 17, line 3-p. 18, line 24 and Figs. 1-5.

Claims 8, 13, 24, and 27-45, 47-61, and 70 are canceled and claims 5-7, 9, 10, 14, 18, 20, 22, 23, 26, and 62-69 are amended to address editorial issues resulting from the amendment of claims 1 and 46.

Support for the foregoing amendment is found throughout the specification and in the claims as detailed above. Accordingly, no new matter has been added.

***Claim Rejections - 35 U.S.C. § 103***

Claims 1-70 stand rejected as unpatentable over Franklin et al. (U.S. Patent No. 6,125,352) under 35 U.S.C. § 103(a). The rejection is respectfully traversed and reconsideration is requested. Franklin et al. do not teach or suggest the method and system of operating a computer system for data management of an electronic transaction according to Applicants' claimed invention. Rather, Franklin et al. disclose nothing more than a PC running a browser with shopping basket, electronic wallet, and address book functionality capable of accessing a merchant's web server. See, e.g., Abstract.

Specifically, Franklin et al. do not teach or suggest a transaction portal server that receives the selection data from the interface-enabled communications device via the wireless communication network and which is also coupled to a merchant server that is provided with a check-out application in communication with a product database and an order fulfillment system and which merchant server also adapted for providing information describing one or more aspects of the product to the interface-enabled communications device from the product database via the wireless communication network coupled to the transaction portal server, as recited in independent claims 1 and 46. Rather, Franklin et al. disclose allowing a consumer at the consumer's PC to access a merchant's web site with the consumer's browser and gather and store information about the web merchant and the web merchant's products

and to order the web merchant's products using functionality of the consumer's PC. See, e.g., col. 7, lines 25-42; col. 8, line 58-col. 9, line 14; and col. 15, lines 13-24.

Nor do Franklin et al. teach or suggest a merchant check-out application that is adapted to receive shipping detail data via the transaction portal server from an electronic wallet server that is associated with the transaction portal server and coupled to a payment processor and also to receive payment option data from the interface-enabled communications device via the wireless communication network coupled to the transaction portal server, as recited in independent claims 1 and 46. On the contrary, Franklin et al. disclose functionality on the consumer's PC to store payment source information in the electronic wallet of the PC and shipping address information in the electronic address book of the PC and to load up the electronic wallet object if the consumer enters a selection on the consumer's PC to confirm a purchase. See, e.g., col. 25, line 65-col. 27, line 10; col. 24, line 39-col. 25, line 64; and col. 27, lines 11-40.

Neither do Franklin et al. teach or suggest the transaction portal server that transmits payment authorization data to the payment processor, which sends an authorization back to the transaction portal server, whereupon the transaction portal server transmits order information to the order fulfillment system of the merchant, as recited in independent claims 1 and 46. Rather, Franklin et al. disclose functionality on the consumer's PC for sending product and payment instruction information from the consumer's PC to the merchant's web server and to receive an order confirmation message transmitted to the consumer's PC browser by the merchant web server. See, e.g., col. 27, lines 28-50 and col. 28, lines 28-51.

Consequently, Franklin et al. do not recite the required combination of limitations proposing a transaction portal server that: a) receives selection data from the interface-enabled communications device via the wireless communication network; b) is coupled to a merchant server that has a check-out application in communication with a product database and an order fulfillment system, (i) which



merchant server is adapted for providing information describing one or more aspects of the product to the interface-enabled communications device from the product database via the wireless communication network coupled to the transaction portal server, and (ii) which check-out application is adapted to receive shipping detail data via the transaction portal server from an electronic wallet server that is associated with the transaction portal server and coupled to a payment processor and to receive payment option data from the interface-enabled communications device via the wireless communication network coupled to the transaction portal server; and c) transmits payment authorization data to the payment processor, which sends an authorization back to the transaction portal server, whereupon the transaction portal server transmits order information to the order fulfillment system of the merchant.

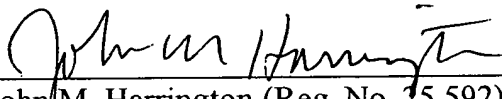
Because each and every element as set forth in independent claims 1 or 46 is not found, either expressly or inherently in Franklin et al., the Examiner has failed to establish the required *prima facie* case of unpatentability. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987); See also MPEP §2131. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claims 1 and 46 and similarly has failed to establish a *prima facie* case of unpatentability for claims 2-7, 9-12, 14-23, 25, 26, and 62-69 that depend on claim 1 and which recite further specific elements that have no reasonable correspondence with the references.

### Conclusion

In view of the foregoing amendment and these remarks, each of the claims remaining in the application is in condition for immediate allowance. Accordingly, the examiner is requested to reconsider and withdraw the rejection and to pass the application to issue. The examiner is respectfully invited to telephone the undersigned at (336) 607-7318 to discuss any questions relating to the application.

Respectfully submitted,

Date: 9/16/03

  
John M. Harrington (Reg. No. 25,592)  
for George T. Marcou (Reg. No. 33,014)

Kilpatrick Stockton LLP  
607 14<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005  
(202) 508-5800

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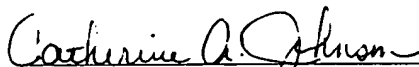
Date of Deposit: September 16, 2003

Type of Document(s): Transmittal (*In Duplicate*);  
Request for Extension of Time Pursuant  
To 37 CFR 1.136(a) (*In Duplicate*);  
Amendment and Remarks;  
Check in the amount of \$930; and  
Return Postcard

Serial No.: 09/728,471

Date Filed: November 30, 2000

I hereby certify that the documents identified above are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and are addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Catherine A. Johnson

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : YOUNG, Alan et al.  
Serial No. : 09/728,471  
Filed : November 30, 2000  
For : **SYSTEM AND METHOD FOR PERFORMING  
AN ELECTRONIC TRANSACTION USING A  
TRANSACTION PROXY WITH AN  
ELECTRONIC WALLET**  
  
Art Unit : 3617  
Examiner : Jaketic. B.

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR EXTENSION OF TIME PURSUANT TO 37 CFR 1.136(a)**

Sir:

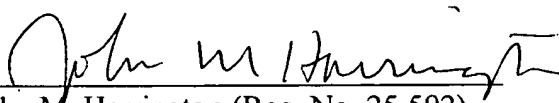
Applicants respectfully request a three-month extension of time in which to respond to the Office Action mailed March 18, 2003, in the above-identified patent application. This extension of time will extend the period for response up to and including September 18, 2003.

Enclosed is a check in the amount of \$930.00 to cover the fees for this action. The Commissioner is hereby authorized to charge any additional fees required by this action, or credit any overpayment, to Deposit Account No. 50-1458. A duplicate of this sheet is enclosed for that purpose.

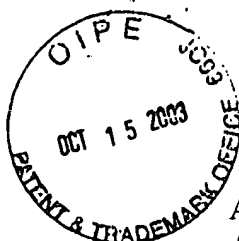
Respectfully submitted,

Date 9/16/03

Kilpatrick Stockton LLP  
607 14<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005  
(202) 508-5800

  
John M. Harrington (Reg. No. 25,592)  
For George T. Marcou (Reg. No. 33,014)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of : Young et al.  
Application No. : 09/728,471  
Filed : November 30, 2000  
For : **SYSTEM AND METHOD FOR PERFORMING  
AN ELECTRONIC TRANSACTION USING A  
TRANSACTION PROXY WITH AN  
ELECTRONIC WALLET**  
  
Examiner : Jaketic, B.  
Art Unit : 3617

Commissioner for Patents  
P.O. Box 1450  
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**GROUP 3600**

TRANSMITTAL

Sir:

Transmitted herewith are copies of the following document(s) for filing in the above-identified application:

Request for Extension of Time Pursuant to 37 CFR 1.136(a)  
Amendment and Remarks  
Check for \$930.00

Shown below are the fees for the presentation of the amended claims:

	Claims Remaining	Highest # Previously Paid For	Extra	Rate	Fee
TOTAL	32	70	0	\$18	\$ 0
Ind. Cls.	2	3	0	\$84	\$ 0
Multiple Dependent Claim Added.....					NO
TOTAL					\$ 0

The Commissioner is hereby authorized to charge any deficiency to Deposit Account Number 50-1458. A duplicate of this transmittal is attached for that purpose.

Respectfully submitted,

Date: 9/16/03  
KILPATRICK STOCKTON LLP  
607 14<sup>th</sup> Street, NW, Suite 900  
Washington, DC 20005  
(202) 508-5800

By: John M. Harrington  
John M. Harrington (Reg. No. 25,592)  
for George T. Marcou (Reg. No. 33,014)

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No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials J.A.B.	Total Postage & Fees \$13.65	

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<small>WAIVER OF SIGNATURE (Domestic Only) Additional merchandise insurance is void if a waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent. (If delivery employee judges that article can be left in secure location) and I authorize the delivery employee's signature constitutes valid proof of delivery.</small>		
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Exhibit B



EXPRESS MAIL NO. EV31633177US

*In re application of:* **Young et al.**  
*For:* SYSTEM AND METHOD FOR PERFORMING  
AN ELECTRONIC TRANSACTION USING A  
TRANSACTION PROXY WITH AN  
ELECTRONIC WALLET

*Serial No.:* 09/728,471  
*Express Mail No.:* EV 315185074 US

***The Following Was Received by the PTO:***

- ☒ Express Mail Certificate (No. EV 315185074 US);
- ☒ Transmittal (*In Duplicate*);
- ☒ Request for Extension of Time Pursuant to 37 CFR 1.136(a) (*In Duplicate*);
- ☒ Amendment and Remarks;
- ☒ Check in the amount of \$930.00

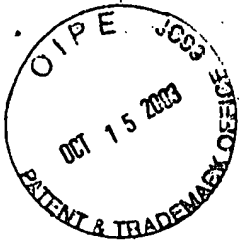
*Date Mailed to PTO:* September 16, 2003  
*Client Matter No.:* C0464/196869 (*I-Mode Wallet*)



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OCT 21 2003  
**GROUP 3600**

Exhibit C

Page 1 of 2



John M. Harrington, Esq.  
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